

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Parcel Return Service  
Parcel Return Service Contract 7

Docket No. MC2015-50

Competitive Product Prices  
Parcel Return Service Contract 7 (MC2015-50)  
Negotiated Service Agreement

Docket No. CP2015-72

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE REQUEST TO ADD  
PARCEL RETURN SERVICE CONTRACT 7  
TO COMPETITIVE PRODUCT LIST

(May 26, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2492.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Parcel Return Service Contract 7 to the competitive product list.<sup>2</sup>

The Postal Service's Request includes a Statement of Supporting Justification (Statement), a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governor's Decision No. 11-6 and related analysis, a public version of Parcel Return Service Contract 7, and proposed changes to the Mail Classification Schedule (MCS) competitive product list with the additions underlined. The Postal Service also filed under seal an unredacted version of Governor's Decision No. 11-6, Contract 7, and a supporting financial model estimating the contract value during the first year.

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<sup>1</sup> PRC Order No. 2492, Notice and Order Concerning Addition of Parcel Return Service Contract 7 to the Competitive Product List, May 19, 2015.

<sup>2</sup> Request of the United States Postal Service to Add Parcel Return Service Contract 7 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May15, 2015 (Request).

The Postal Service states that Parcel Return Service Contract 7 is a competitive product not “of general applicability” within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. The Postal Service also maintains that the prices and classification underlying the Contract 7 are supported by Governors’ Decision No. 11-6.<sup>3</sup> The Postal Service further asserts that the Statement provides support for adding Contract 7 to the competitive product list and the compliance of Contract 7 with 39 U.S.C. § 3633(a). Request at 2.

The effective date for Contract 7 is the day following the date on which the Commission issues all necessary regulatory approvals. *Id.*, Attachment B at 4. Contract 7 is to expire three years from the effective date, unless either party terminates the contract for convenience upon 30 days prior written notification. *Id.*

## COMMENTS

The Public Representative has reviewed the Contract 7, the Statement, and the financial model filed under seal as part of the Postal Service’s Request. Based upon that review, the Public Representative concludes that Contract 7 should be categorized as a competitive product and added to the competitive product list. In addition, it appears that Contract 7 should generate sufficient revenues to cover costs during its first year and thereby satisfy 39 U.S.C. § 3633(a).

*Product List Assignment.* Pursuant to 39 U.S.C. § 3652, the Postal Service requests that Contract 7 be added to the competitive product list. 39 U.S.C. § 3652 requires the Commission to consider whether “the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.” 39 U.S.C. § 3652(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

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<sup>3</sup> Decision of the Governors of the United States Postal Service on Establishment of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors’ Decision No. 11-6).

The Postal Service makes a number of assertions that address the considerations of section 3652(b)(1). Request, Attachment D, at 2. These assertions appear reasonable. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add Contract 7 to the competitive product is appropriate.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal, it appears the negotiated prices for Contract 7 should generate sufficient revenues to cover costs during its first year and thereby satisfy 39 U.S.C. § 3633(a).

As noted above, however, Contract 7 is expected to remain in effect for a period of three years. Contract 7 provides for the annual adjustment of prices on the contract anniversary date during the term of the contract to improve the likelihood that the Contract 7 meets the requirements of 39 U.S.C. § 3633(a) over its lifetime. The price adjustments are linked to the most recent average increase in prices of general applicability for Parcel Return Service. However, if the Postal Service does not seek a price adjustment, or proposes a decrease in generally applicable prices for Parcel Return Service, the cost coverage for Contract 7 would decline—assuming costs rise over the three-year period.

This concern is mitigated somewhat by the fact that the Postal Service must file revenue and cost data for Contract 7 in future Annual Compliance Reports. This data will permit the Commission to annually review the financial results for Contract 7 in its Annual Compliance Determination (ACD) reports for compliance with 39 U.S.C. § 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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